

(2025) 11 BOM CK 1784
In the Bombay High Court, Aurangabad Bench
Case No : First Appeal No. 2762 Of 2023

Shriram

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 07-11-2025

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 12(2), 23, 28, 34

Citation : (2025) 11 BOM CK 1784

Hon'ble Judges : Sandeepkumar C. More, J;Nitin B. Suryawanshi, J

Bench : Division Bench

Advocate : N. S. Tekale, S. S. Chillarge, Shrikant J. Sonkawade

Final Decision : Dismissed

Judgement

Sandeepkumar C. More, J

1. All these First Appeals are taken up together for disposal by common judgment, since the challenge therein is to the common judgment and award dated 29th April 2022, passed by the learned Joint Civil Judge, Senior Division, Latur (hereinafter referred to as 'the Reference Court') in Land Acquisition Reference Nos. 80, 81, 82, 83 of 2012 and 323 of 2017. The first group of five appeals has been preferred by the original land owners, whose lands are acquired for construction of Percolation Tank No.2 at village Babhalgaon, District Latur. In the first group of five appeals, the Special Land Acquisition Officer offered compensation @ Rs. 1394/- per R and 2788/- per R. However, the learned Reference Court partly allowed the Reference Petitions of the appellants/claimants by granting compensation @ Rs. 125/- per sq. ft. along with other statutory benefits. As such, the appellants/claimants preferred these appeals for enhancement of the compensation, by claiming it at the rate of 250 per sq. ft. along with the other statutory benefits. The State too has preferred the other five appeals, i.e. second group for reduction of rate of compensation awarded by the learned Reference Judge.

2. We have heard the learned counsel for the appellants/claimants as well as learned A.G.P. for the State in their respective groups of appeals.

3. The learned counsel for the appellants/claimants in first group of five appeals submitted that the impugned judgment is illegal, perverse and inadequate compensation is awarded, since the learned Reference Court failed to consider that the acquired lands were having high potentiality as well as commercial use. According to him, the acquired lands were adjacent to Latur-Nilanga State Highway and surrounded by developed infrastructure. Besides, there were Government facilities in proximity of those lands, such as District headquarters, R.T.O. Office, Police Training Academy, District Police Training Center, Government Rest House, and Primary Health Center. There are also educational institutions, such as Dayanand Senior and Junior College and Vocational College. In addition to that, there are other institutions including Bank, Milk Dairy, Shopping Complex and residential colonies near to the acquired lands. He pointed out that village Babhalgaon is within the Municipal Limits of Latur city with a population of over Ten Thousand and it is developing rapidly. According to him, the learned Reference Judge definitely erred in not considering the comparable sale instances of the same village in respect of Gut No. 28, showing the rates between Rs. 214 to 250 per square feet. Further, according to him, the learned Reference Judge also did not consider the previous judgments wherein higher rate was given to the similar placed lands. He further submitted that, though the learned Reference Judge relied only on the last rate of Rs. 166/-per sq. ft. as reflected from the award in LAR No. 894 of 2009 at Exh.36, but further applied 25% deduction unnecessarily. Thus, he prayed for enhancement at the rate of Rs. 250/- per sq. ft. along with allied statutory benefits.

4. On the contrary, the learned A.G.P. submits that the compensation granted by the learned Reference Court in the instant matters is definitely exorbitant and needs further reduction. He pointed out as to how the judgment in First Appeal No. 1459 of 2020 with connected matters cannot be used on the ground of parity. As such, he sought appropriate reduction in the compensation. In support of his contention, he relied on the following judgments;

(I) Division Bench of this Court in the case of The State of Maharashtra Vs. Digambar Manik Kalyankar [First Appeal No. 1668 of 2014] dated 1st July, 2024.

(II) Division Bench of this Court in Nirmalabai Bhausahab Deshmukh Vs. The State of Maharashtra and others [First Appeal No. 1459 of 2020] dated 2nd May, 2025.

He also pointed out that the learned Reference Judge wrongly awarded the interest under Sections 28 and 34 of the Land Acquisition Act, 1894 from the date of notification and the same ought to have been granted from the date of award i.e. 12.02.2004. He has submitted written notes of arguments.

5. Heard rival submissions. Also perused the entire material on record along with the impugned judgment.

6. For quick reference, we have reproduced herein below the chart showing acquisition of the lands of claimants/appellants, their respective areas, the compensation awarded by Special Land Acquisition Officer and compensation granted by the Reference Court and the rate at which enhanced compensation is sought by the claimants/appellants.

Sr.
LAR No.
Name of
Acquire
Acquired
Compe-
Compe-
Compen-
No.
Claimant
Land
Area
nsation
nsation
sation
Gat No.
awarded
awarded
claimed
by
By
by
SLAO
Senior
claimants
Division

Latur

1

80/2012

Shriram

355

01H34

Rs.1394

Rs. 125

Rs. 250

R

Per R

Per

Per Sq.

Sq.ft

Ft.

2

81/2012

Nilakanth

385

38 R

Rs.

Rs. 125

R. 250

1394

Per

Per Sq.ft.

Per R

Sq.Ft.

3

82/2012

Ramchandra

362

42 R

Rs.

Rs. 125

Rs. 250

1394

Per Sq.

Per Sq. ft.

Per R

ft.

4

83/2012

Manohar

362

27R

Rs.

Rs. 125

Rs. 250

2788

Per Sq.

Per Sq. ft.

Per R

ft.

5

332/2017

Pandrang

385

43 R

Rs.

Rs. 125

Rs. 250

Pitamber

1394

Per Sq.

Per Sq. ft.

Per R

ft.

7. Record shows that all these appellants have examined one Shriram Pandrang Dange (claimant in L.A.R. No. 80 of 2012) on their behalf at Exh.21. Further, they have produced Village Map at Exh.23 and Tahsil Map at Exh.40. They have relied on following sale instances regarding Gat No. 28 of village Babhalgaon as follows :-

(A) Exh.22 : sale deed dated 01.11.2002, for land admeasuring 1400 Sq. Ft., for the consideration of Rs. 3,33,000/- that means Rs. 237.85/- Per Sq.Ft.

(B) Exh. 23 : sale deed dated 12.12.2002, for the land admeasuring 1400 Sq.Ft., for the consideration of Rs. 3,00,000/- that means Rs.214.28/- Per Sq.Ft.

(C) Exh.24 & 25: sale deeds dated 23.12.2002 for the land admeasuring 1400 Sq. Ft. each, for the consideration of Rs. 3,50,000/- each that means Rs. 250/- Per Sq.Ft.

8. Additionally, the claimants/appellants have also relied on the following previous LAR Judgments for the lands acquired in Babhalgaon village.

(I) Exh. 36 is the judgment in LAR(G) No. 894/2009 in respect of Gat No. 28, wherein rate of compensation is Rs.166/- Per Sq.Ft.

(II) Exh.41 : LAR(G) No. 279/2008 in respect of (Gat Nos. 29,31,33,34) wherein rate of compensation is Rs.188/-Per Sq.Ft.

(III) Exh. 42 : LAR(G) No.663/2009 in respect of (Gat Nos. 28,29,34) wherein rate of compensation is Rs. 220/- Per Sq. Ft.

9. Though the present respondents had raised an objection about limitation, but the learned Reference Judge discarded the said objection by observing that respondents have failed to prove that the notice under Section 12(2) of the Land Acquisition Act was duly served upon the claimants. We do not see any perversity in the said observation. Moreover, the endorsement on the Reference Petition (Exh.1) indicates that it was filed within the stipulated period.

10. The learned Reference Judge appears to have relied on the judgment of Hon'ble Apex Court in the case of Chimanlal

Hargovinddas Vs Special Land Acquisition Officer, Pune [AIR 1988 SC 1652]. Admittedly, in the aforesaid judgment, the Hon'ble Apex Court has given certain guidelines as to how the compensation in acquisition cases is to be determined. As per those guidelines, the method of comparable sale instances is held to be the best method, if they are proximate in time and situation of the acquired land. Further, the judgment says that certain factors such as size, location, and development potential, etc. are also to be considered while determining the proper valuation. It appears from the impugned judgment that the learned Reference Judge rejected the sale deeds (Exhibits 22 to 25) to be considered as comparable sale instances, mainly on the ground that they pertain to Gut No. 28, situated on the northern side of village with NA permission, whereas the lands under acquisition in the instant matters, are on the southern side of village and thereby not sufficiently proximate to the location of Gat No. 28. The learned Reference Judge has also rejected the previous judgments (Exhibits 41 & 42), since the lands under acquisitions in those matters, were acquired for different purpose i.e. (Police Training Center) and situated towards northern side of the village. However, it appears that the learned Reference Judge has relied on the previous judgment in LAR No. 894 of 2009 (Exhibit 36) wherein compensation at the rate of Rs.166/- per Sq. Ft for portion of land in Gat No. 491 was granted. As per the learned Reference Judge, the said land Gat No. 491 was nearer to the subject land. However, the learned Reference Judge appears to have deducted 25% from the aforesaid rate of Rs. 166/- Per Sq.Ft on account of locational difference, and therefore, granted Rs.125/- Per Sq.Ft. in the instant cases.

11. It is to be noted here that as per the judgment of the Hon'ble Apex Court in the case of Chimanlal (supra), considering the comparable sale instances is the best method. The claimants/ appellants, as discussed above, have filed on record comparable sale instances Exhibits 22 to 25 in respect of Gat No. 28, which is situated at some distance from the acquired lands in the instant case. On perusal of the evidence on record though the aforesaid sale deeds are in respect of smaller plots of land, but sale deed at Exh.25 is dated 23.12.2002, which is proximate to the date of notification under Section 4 of the Act in the instant matter i.e. on 10.01.2003. In the aforesaid sale instances, rate of Rs.250/-per Sq.Ft. is granted. Further, the judgment of L.A.R. (G) No. 663 of 2009 to L.A.R. (G) No. 666 of 2009 at Exh. 42 also indicates that the learned Reference Judge has granted rate of Rs.220/- per sq. ft in respect of lands of village Babhalgaon from Gut Nos. 28, 29 and 34. It is to be noted that when the comparable sale instances are filed on record, then the comparable sale instances or the judgment of parity, which has quoted higher rate is to be preferred. It has come on record that land Gat No. 28 is situated at northern side, then land Gat No. 491 is there in the middle portion and the lands under acquisition in the instant matters are at southern side. The learned Reference Judge has already deducted 25% from the rate granted for acquisition of land Gat No. 491. However, the learned Reference Judge ought to have taken the rate of Rs.220/- per sq. ft. for such deduction, and therefore, the learned Reference Judge should have

considered the previous judgment in LAR (G) 663 of 2009 to 666 of 2009, wherein rate of Rs.220/- per sq.ft. is granted for the lands acquired for Percolation Tank.

12. Thus, if we deduct 25% from the aforesaid rate of Rs. 220/- per sq.ft., then the rate comes to Rs.165/- per sq. ft. Therefore, we deem it appropriate to grant enhanced compensation to all these claimants/appellants for the acquisition of their lands at the rate of Rs.165/- per sq.ft., which definitely appears reasonable and proper in the background facts, as discussed earlier. The learned A.G.P. vehemently argued that the learned Reference Court wrongly awarded interest under Section 28 and 34 of the Act from the date of notification under Section 4, but as per the judgment in the case of State of Maharashtra Vs. Kailash Shiva Rangari [2016(3) Mh.L.J. 457] the interest should have been granted from the date of award i.e. 12.02.2004. However, on going through the operative part of the order of the impugned judgment, it is clearly mentioned by the learned Reference Court that the aforesaid interest is granted from the date of notification i.e. 10.01.2003. As such there appears mistake to that effect and it has to be corrected. As such, we pass the following order :-

ORDER

(I) All the five First Appeals bearing First Appeal Nos. 2762/2023, 2763 of 2023, 2764/2023, 2765/2023, 2766/2023 in first group filed by the land owners are hereby partly allowed as follows :

(II) The respondents shall pay the enhanced amount of compensation @ Rs. 165/- per sq.ft. along with the amount of component @ 12% per annum from the date of publication of notification under Section 4 of the Land Acquisition Act i.e.

10.01.2003 till the date of award i.e. 12.02.2004 vide Section 23(1-A) of the Land Acquisition Act.

(III) The respondent shall also pay 30% amount on the aforesaid enhanced compensation as solatium vide Section 23(2) of the Land Acquisition Act.

(IV) The respondents shall pay interest to the claimants on enhanced compensation @ 9% per annum from the date of award i.e. 12.02.2004 for first year till 11.02.2005 and thereafter @ 15% per annum till the date of realization of the entire amount vide Section 28 of the Land Acquisition Act.

(V) The respondents shall pay to the claimants interest @ 9% per annum on the amount awarded by S.L.A.O. as a compensation from the date of award i.e. 12.02.2004 for first year till 11.12.2005 and thereafter @ 15% per annum till the date of realization of said amount as per Section 34 of the Land Acquisition Act, 1894.

(VI) The respondents shall pay proportionate costs of these Reference Petitions to the claimants and shall bear their own costs.

(VII) The amount withdrawn by the claimants be deducted from the enhanced compensation awarded.

(VIII) The claimants are directed to pay the deficit Court fees, if any, within one month from today.

(IX) First Appeal Nos. 1196, 1197, 1198, 1199 and 1200 of 2023 filed by the State stand dismissed.

(X) Award be drawn up accordingly.